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Application No.: 10/070,801

Docket No.: 324-142

REMARKS

Claims 2, 3, and 13 have been amended for clarity.

The office action states: "Claims 1, 7-10 and 12-13 are rejected under 35 USC 103(a) as being anticipated by Fraser (U.S. Patent 5,329,589)." The statement is patently ambiguous because a rejection under 35 USC 103(a) cannot be a rejection based on anticipation, since 35 USC 103(a) is concerned with rejections based on obviousness. Because paragraph 13 of the office action, bridging pages 3 and 4 thereof, admits Fraser fails to disclose a feature of independent claims 1 and 9 and paragraph 16 of the office action implies the same, applicants will consider the rejection as being a rejection based on obviousness under 35 USC 103(a).

Applicants traverse the rejection of claims 1, 7-10, 12 and 13 under 35 USC 103(a) as being anticipated by Fraser. Applicants disagree with the statement in paragraph 4 of the office action that states Fraser discloses a customer communication system for calling a vendor and "this connection" is maintained throughout the transaction process. This connection is not defined and applicants presume the connection is between customer C 403 (first terminal) and vendor V 405 (second terminal) (Figure 4, column 8, beginning with line 30).

Applicants disagree because the connection between customer C 403 (first terminal) and vendor V 405 (second terminal) is not set up at the beginning of the transaction. As result, the connection between customer C 403 and vendor V 405 does not need to be maintained throughout the transaction process. Only the connection between the customer C 403 and the transaction manager 407 (third terminal) is established when the transaction manager uses a digital voice message to ask a customer for the credit card number (CCN) and when the customer uses the touch-tone

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channel to respond. Fraser discloses in column 8, lines 39-48 that transaction manager 407 sets up message path 421 between switch 107 and customer 403 to ask for the credit card number by a digital voice message and to receive the credit card number that is supplied by using Touch-Tone buttons on the customer's telephone.

With the respect to paragraph 5 of the office action, there is no direct call from the customer to the vendor (see infra relating to obviousness). The call by the vendor is actually a call from the customer to the transaction manager so the customer can indicate to the transaction manager that the customer wishes a connection with the vendor.

Therefore paragraph 4 of the Office action is inconsistent with paragraph 13 of the office action which admits Fraser fails to disclose, during the call, setting up a link between the second terminal and a third terminal via the network in response to the second terminal requesting validation of the operation, then setting up a link between the first terminal and the third terminal via another logical channel of the digital multiplex link,

The allegation in paragraphs 14 and 15 in the office action that it would have been obvious "to modify Fraser so that initially, the call is set up solely between the first terminal (customer) calls the second terminal (vendor); then at the discretion of the second terminal (vendor) during the call, setting up a link between second terminal and third terminal via the network at the request of second terminal and third terminal via network at the request of second terminal to request validation of said operations (sic)" is incorrect and has no basis from the Fraser reference. In addition, the reference to "operations" is incorrect because the claims referred to an operation.

The obviousness referred to in paragraphs 14 and 15 must be analysed with respect to the problem Frazier seeks to solve and is presented with respect prior art discussed in connection with Figure 2 of the Fraser reference. In the system of Figure 2 (column 3, line 30-column 4, line 28), transaction information 207 is transmitted from

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entity 1 (first terminal) to entity 3 (third terminal), then from entity 3 to entity 2 (second terminal).

This problem is confirmed in column 6, lines 43-54:

entity 2 105(2) (second terminal) never receives transaction information 1 207, and

there may be no need for direct communication between entity 1 (first terminal) and entity 2 (second terminal),

entity 2 need not exchange messages with entity 1.

Fraser, in the embodiment of Figure 4, also imposes a connection between customer entity 403 (first terminal) and transaction manager 407 (third terminal). After the connection between entity 403 and a manager 407 has been established, a connection between transaction manager 407 (third terminal) and vendor V 405 (second terminal) is established at the beginning of a transaction to avoid the most important problem of disclosing the customer's credit card number to someone the customer does not know (column 8, lines 24-26), i.e. to transmit the credit card number from entity 1 (first terminal) to entity 3 (third terminal) at the beginning of a transaction. Only after the first two connections have been established, does transaction manager 407 perform an action causing switch 107 to connect the customer (first terminal) with the vendor (second terminal) (column 8, lines 48-53).

Consequently applicants cannot agree with the statements in paragraphs 14 and 15 of the Office action that it would have been obvious to modify Fraser to derive the steps included in independent claims 1, 9 and/or 12.

An advantage of applicants' claimed subject matter not found in Fraser is, for example, that the confidential data used to validate the operation are only transferred between the first terminal (the customer) and the third terminal (telepayment manager) via a digital channel after a call between the first terminal (the customer) and the second

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terminal (the vendor) via another digital channel has been established. The link between the first terminal (customer) and the third terminal (telepayment manager) unnecessarily encumbers the telecommunication network if the customer decides not to buy after discussing transaction and price.

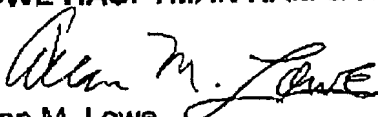
Dependent claims 2-8, 10, 11 and 13 are allowable for the same reasons advanced for claims 1, 9 and 12, upon which they depend.

In view of the foregoing amendments and remarks, favorable reconsideration and allowance are respectfully requested and deemed in order.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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